



## 98TH GENERAL ASSEMBLY

### State of Illinois

### 2013 and 2014

### SB3076

Introduced 2/7/2014, by Sen. John G. Mulroe

#### SYNOPSIS AS INTRODUCED:

20 ILCS 2310/2310-600

210 ILCS 45/2-104.2

210 ILCS 50/3.57

210 ILCS 85/6.19

755 ILCS 40/65

from Ch. 111 1/2, par. 4152-104.2

Amends the Department of Public Health Powers and Duties Law of the Civil Administrative Code of Illinois. Provides that the Department of Public Health's required publication of advance directive law must include the practitioner (instead of "physician") orders for life-sustaining treatment (POLST) form. Provides that the Department of Public Health shall develop and publish a uniform form for practitioner cardiopulmonary resuscitation (CPR) or life sustaining treatment orders (instead of "physician do-not-resuscitate orders") that may be utilized in all settings. Changes references to the Department of Public Health DNR Advance Directive Form to references to the Department of Public Health Uniform POLST form. Makes corresponding changes in the Nursing Home Care Act, the Emergency Medical Services (EMS) Systems Act, the Hospital Licensing Act, and the Health Care Surrogate Act. Further amends the Health Care Surrogate Act. Provides that any attending health care practitioner (instead of "physician") may execute a POLST or advance directive form. Defines "attending health practitioner" as an individual who (1) is an Illinois licensed physician, advanced practice nurse, physician assistant, or licensed resident after completion of one year in a program; (2) is selected by or assigned to the patient; and (3) has primary responsibility for treatment and care of the patient. Provides that nothing in the Section concerning POST or do-not-resuscitate advance directive forms shall be construed to affect the ability of an individual to include instructions in an advance directive, such as a power of attorney for health care. Deletes language concerning the form of a DNR Advance Directive.

LRB098 15875 HEP 50920 b

1 AN ACT concerning health care.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Department of Public Health Powers and  
5 Duties Law of the Civil Administrative Code of Illinois is  
6 amended by changing Section 2310-600 as follows:

7 (20 ILCS 2310/2310-600)

8 Sec. 2310-600. Advance directive information.

9 (a) The Department of Public Health shall prepare and  
10 publish the summary of advance directives law, as in Illinois  
11 ~~that is~~ required by the federal Patient Self-Determination Act,  
12 and related forms. Publication may be limited to the World Wide  
13 Web. The summary required under this subsection (a) must  
14 include the Department of Public Health Uniform POLST form.

15 (b) The Department of Public Health shall publish Spanish  
16 language versions of the following:

17 (1) The statutory Living Will Declaration form.

18 (2) The Illinois Statutory Short Form Power of Attorney  
19 for Health Care.

20 (3) The statutory Declaration of Mental Health  
21 Treatment Form.

22 (4) The summary of advance directives law in Illinois.

23 (5) The Department of Public Health Uniform POLST form

1 ~~DNR Advance Directive forms.~~

2 Publication may be limited to the World Wide Web.

3 (b-5) In consultation with a statewide professional  
4 organization representing physicians licensed to practice  
5 medicine in all its branches, statewide organizations  
6 representing nursing homes, registered professional nurses,  
7 and emergency medical systems, and a statewide organization  
8 representing hospitals, the Department of Public Health shall  
9 develop and publish a uniform form for practitioner  
10 cardiopulmonary resuscitation (CPR) or life sustaining  
11 treatment ~~physician do not resuscitate~~ orders that may be  
12 utilized in all settings. The form shall meet the minimum  
13 requirements to nationally be considered a practitioner  
14 ~~physician~~ orders for life-sustaining treatment form, or POLST,  
15 and may be referred to as the Department of Public Health  
16 Uniform POLST form ~~DNR Advance Directive~~. This form ~~advance~~  
17 ~~directive~~ does not replace a physician's or other  
18 practitioner's authority to make a do-not-resuscitate (DNR)  
19 order.

20 (c) (Blank).

21 (Source: P.A. 97-382, eff. 1-1-12.)

22 Section 10. The Nursing Home Care Act is amended by  
23 changing Section 2-104.2 as follows:

24 (210 ILCS 45/2-104.2) (from Ch. 111 1/2, par. 4152-104.2)

1           Sec. 2-104.2. Do-Not-Resuscitate Orders and Department of  
2 Public Health Uniform POLST forms.

3           (a) Every facility licensed under this Act shall establish  
4 a policy for the implementation of practitioner ~~physician~~  
5 orders concerning cardiopulmonary resuscitation (CPR) or life  
6 sustaining treatment including but not limited to ~~limiting~~  
7 ~~resuscitation such as those commonly referred to as~~  
8 "Do-Not-Resuscitate" orders. This policy may only prescribe  
9 the format, method of documentation and duration of any  
10 practitioner ~~physician~~ orders ~~limiting resuscitation~~. Any  
11 orders under this policy shall be honored by the facility. The  
12 Department of Public Health Uniform DNR Advance Directive and  
13 Department of Public Health Uniform POLST form under Section  
14 2310-600 of the Department of Public Health Powers and Duties  
15 Law of the Civil Administrative Code of Illinois, or a copy of  
16 that Advance Directive or POLST form, shall be honored by the  
17 facility.

18           (b) Within 30 days after admission, new residents who do  
19 not have a guardian of the person or an executed power of  
20 attorney for health care shall be provided with written notice,  
21 in a form and manner provided by rule of the Department, of  
22 their right to provide the name of one or more potential health  
23 care surrogates that a treating physician should consider in  
24 selecting a surrogate to act on the resident's behalf should  
25 the resident lose decision-making capacity. The notice shall  
26 include a form of declaration that may be utilized by the

1 resident to identify potential health care surrogates or by the  
2 facility to document any inability or refusal to make such a  
3 declaration. A signed copy of the resident's declaration of a  
4 potential health care surrogate or decision to decline to make  
5 such a declaration, or documentation by the facility of the  
6 resident's inability to make such a declaration, shall be  
7 placed in the resident's clinical record and shall satisfy the  
8 facility's obligation under this Section. Such a declaration  
9 shall be used only for informational purposes in the selection  
10 of a surrogate pursuant to the Health Care Surrogate Act. A  
11 facility that complies with this Section is not liable to any  
12 healthcare provider, resident, or resident's representative or  
13 any other person relating to the identification or selection of  
14 a surrogate or potential health care surrogate.

15 (Source: P.A. 96-448, eff. 1-1-10.)

16 Section 15. The Emergency Medical Services (EMS) Systems  
17 Act is amended by changing Section 3.57 as follows:

18 (210 ILCS 50/3.57)

19 Sec. 3.57. Physician do-not-resuscitate orders and  
20 Department of Public Health Uniform POLST forms. The Department  
21 of Public Health Uniform DNR Advance Directive and Department  
22 of Public Health Uniform POLST form described in Section  
23 2310-600 of the Department of Public Health Powers and Duties  
24 Law of the Civil Administrative Code of Illinois, or a copy of

1 that Advance Directive or POLST form, shall be honored under  
2 this Act.

3 (Source: P.A. 94-865, eff. 6-16-06.)

4 Section 20. The Hospital Licensing Act is amended by  
5 changing Section 6.19 as follows:

6 (210 ILCS 85/6.19)

7 Sec. 6.19. Do-not-resuscitate orders and Department of  
8 Public Health Uniform POLST forms. Every facility licensed  
9 under this Act shall establish a policy for the implementation  
10 of practitioner ~~physician~~ orders concerning cardiopulmonary  
11 resuscitation (CPR) or life sustaining treatment including but  
12 not limited to limiting resuscitation, such as those orders  
13 ~~commonly referred to as~~ "do-not-resuscitate" orders. This  
14 policy may prescribe only the format, method of documentation,  
15 and duration of any practitioner ~~physician~~ orders ~~limiting~~  
16 ~~resuscitation.~~ The policy may include forms to be used. Any  
17 orders issued under the policy shall be honored by the  
18 facility. The Department of Public Health Uniform DNR Advance  
19 Directive and Department of Public Health Uniform POLST form  
20 described in Section 2310-600 of the Department of Public  
21 Health Powers and Duties Law of the Civil Administrative Code  
22 of Illinois, or a copy of that Advance Directive or POLST form,  
23 shall be honored under any policy established under this  
24 Section.

1 (Source: P.A. 94-865, eff. 6-16-06.)

2 Section 25. The Health Care Surrogate Act is amended by  
3 changing Section 65 as follows:

4 (755 ILCS 40/65)

5 Sec. 65. Department of Public Health Uniform POLST or  
6 do-not-resuscitate ~~Do not resuscitate~~ advance directive forms.

7 (a) An individual of sound mind and having reached the age  
8 of majority or having obtained the status of an emancipated  
9 person pursuant to the Emancipation of Minors Act may execute a  
10 document (consistent with the Department of Public Health  
11 Uniform POLST form described in Section 2310-600 of the  
12 Department of Public Health Powers and Duties Law of the Civil  
13 Administrative Code of Illinois ~~DNR—Advance Directive~~)  
14 directing that resuscitating efforts shall not be implemented.  
15 Such a document may also be executed by an attending health  
16 care practitioner ~~physician~~. If more than one practitioner  
17 shares that responsibility, any of the attending health care  
18 practitioners may act under this Section. Notwithstanding the  
19 existence of a do-not-resuscitate (DNR) order or Department of  
20 Public Health Uniform POLST form, appropriate organ donation  
21 treatment may be applied or continued temporarily in the event  
22 of the patient's death, in accordance with subsection (g) of  
23 Section 20 of this Act, if the patient is an organ donor.

24 (b) Consent to a Department of Public Health Uniform POLST

1 ~~form DNR Advance Directive~~ may be obtained from the individual,  
2 or from another person at the individual's direction, or from  
3 the individual's legal guardian, agent under a power of  
4 attorney for health care, or surrogate decision maker, and  
5 witnessed by one individual 18 years of age or older, who  
6 attests that the individual, other person, guardian, agent, or  
7 surrogate (1) has had an opportunity to read the form; and (2)  
8 has signed the form or acknowledged his or her signature or  
9 mark on the form in the witness's presence.

10 (b-5) As used in this Section, "attending health care  
11 practitioner" means an individual who (1) is an Illinois  
12 licensed physician, advanced practice nurse, physician  
13 assistant, or licensed resident after completion of one year in  
14 a program; (2) is selected by or assigned to the patient; and  
15 (3) has primary responsibility for treatment and care of the  
16 patient. "POLST" means practitioner orders for life-sustaining  
17 treatments.

18 (c) Nothing in this Section shall be construed to affect  
19 the ability of an individual to include instructions in an  
20 advance directive, such as a power of attorney for health care.  
21 ~~The DNR Advance Directive may, but need not, be in the form~~  
22 ~~adopted by the Department of Public Health pursuant to Section~~  
23 ~~2310-600 of the Department of Public Health Powers and Duties~~  
24 ~~Law (20 ILCS 2310/2310-600).~~

25 (d) A health care professional or health care provider may  
26 presume, in the absence of knowledge to the contrary, that a

1 completed Department of Public Health Uniform DNR Advance  
2 Directive or Department of Public Health Uniform POLST form, or  
3 a copy of that Advance Directive or POLST form, is a valid ~~DNR~~  
4 ~~Advance Directive~~. A health care professional or health care  
5 provider, or an employee of a health care professional or  
6 health care provider, who in good faith complies with a  
7 cardiopulmonary resuscitation (CPR) or life sustaining  
8 treatment do not resuscitate order, Department of Public  
9 Health Uniform DNR Advance Directive, or Department of Public  
10 Health Uniform POLST form made in accordance with this Act is  
11 not, as a result of that compliance, subject to any criminal or  
12 civil liability, except for willful and wanton misconduct, and  
13 may not be found to have committed an act of unprofessional  
14 conduct.

15 (e) Nothing in this Section or this Amendatory Act of the  
16 94th General Assembly shall be construed to affect the ability  
17 of a physician or other practitioner to make a  
18 do-not-resuscitate order.

19 (Source: P.A. 96-765, eff. 1-1-10.)